



General Assembly

January Session, 2013

Amendment

LCO No. 7149

HB0635507149HR0

Offered by:

REP. ALBERTS, 50th Dist.

To: Subst. House Bill No. 6355

File No. 286

Cal. No. 196

"AN ACT CONCERNING HOMEOWNER PROTECTION RIGHTS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Subdivision (3) of section 36a-330 of the general statutes
4 is repealed and the following is substituted in lieu thereof (*Effective*
5 *from passage*):

6 (3) "Eligible collateral" means [(A) United States treasury bills, notes
7 and bonds, (B) United States government agency securities, (C) United
8 States agency variable-rate securities, (D) mortgage pass-through or
9 participation certificates or similar securities, (E) performing one-to-
10 four-family residential mortgage loans that meet the following criteria:
11 (i) The mortgage loan has a loan-to-value ratio which is less than or
12 equal to eighty per cent for loans without private mortgage insurance,
13 or a loan-to-value ratio which is less than or equal to ninety-five per
14 cent for loans with private mortgage insurance; and (ii) the mortgage
15 loan has a payment history of not more than one payment over thirty

16 days in arrears during the past twelve consecutive months or, if the
17 loan has a payment history of less than twelve months in duration, the
18 loan meets the documentation requirements of the Federal National
19 Mortgage Association or the Federal Home Loan Mortgage
20 Corporation; provided, in the case of a subsequent default under any
21 such mortgage loan that continues uncured for more than sixty days,
22 such loan shall no longer qualify as eligible collateral and shall be
23 replaced by a performing mortgage loan that meets the criteria set
24 forth in this subdivision, and (F) state and municipal bonds;] the
25 following investments for which prices or values are quoted or readily
26 available: (A) General obligations that are guaranteed fully as to
27 principal and interest by the United States or this state or for which the
28 full faith and credit of the United States or this state is pledged for the
29 payment of principal and interest; (B) general obligations of any
30 agency of the United States, including government sponsored
31 enterprises, which are not guaranteed fully as to principal and interest
32 by the United States or for which the full faith and credit of the United
33 States is not pledged for the payment of principal and interest; (C)
34 mortgage pass-through or participation certificates or similar securities
35 that have been issued or guaranteed by the Federal National Mortgage
36 Association, Federal Home Loan Mortgage Corporation or
37 Government National Mortgage Association; (D) general obligations of
38 municipalities and states other than this state that are rated in the three
39 highest rating categories by a rating agency recognized by the
40 commissioner; and (E) revenue obligations for essential services,
41 including education, transportation, emergency, water and sewer
42 services of municipalities and states that are rated in the three highest
43 rating categories by a rating agency recognized by the commissioner
44 and that are determined to be a prudent investment by the governing
45 board of the qualified public depository, by a management committee
46 or board committee appointed by such governing board or by an
47 officer appointed by such governing board, management committee or
48 board committee;

49 Sec. 2. Section 36a-333 of the general statutes is repealed and the

50 following is substituted in lieu thereof (*Effective from passage*):

51 [(a) To secure public deposits, each qualified public depository shall
52 at all times maintain, segregated from its other assets as provided in
53 subsection (b) of this section, eligible collateral in an amount at least
54 equal to the following percentage of uninsured public deposits held by
55 the depository: (1) For any qualified public depository having a risk-
56 based capital ratio of ten per cent or greater, a sum equal to ten per
57 cent of all uninsured public deposits held by the depository; (2) for any
58 qualified public depository having a risk-based capital ratio of less
59 than ten per cent but greater than or equal to eight per cent, a sum
60 equal to twenty-five per cent of all uninsured public deposits held by
61 the depository; (3) for any qualified public depository having a risk-
62 based capital ratio of less than eight per cent but greater than or equal
63 to three per cent, a sum equal to one hundred per cent of all uninsured
64 public deposits held by the depository; (4) for any qualified public
65 depository having a risk-based capital ratio of less than three per cent,
66 and, notwithstanding the provisions of subdivisions (1) to (3),
67 inclusive, of this subsection, for any qualified public depository which
68 has been conducting business in this state for a period of less than two
69 years except for a qualified public depository that is a successor
70 institution to a qualified public depository which conducted business
71 in this state for two years or more, a sum equal to one hundred twenty
72 per cent of all uninsured public deposits held by the depository;
73 provided, the qualified public depository and the public depositor
74 may agree on an amount of eligible collateral to be maintained by the
75 depository that is greater than the minimum amounts required under
76 subdivisions (1) to (4), inclusive, of this subsection; (5) notwithstanding
77 the risk-based capital ratio provisions of subdivisions (1) to (3),
78 inclusive, of this subsection, for any qualified public depository that is
79 an uninsured bank, a sum equal to one hundred twenty per cent of all
80 public deposits held by the depository; and (6) notwithstanding the
81 risk-based capital ratio provisions of subdivisions (1) to (3), inclusive,
82 of this subsection, for any qualified public depository that is subject to
83 an order to cease and desist, consent order or a preliminary warning

84 letter, or has entered into a stipulation and agreement, memorandum
85 of understanding or a letter of understanding and agreement with a
86 bank or credit union supervisor, a sum equal to one hundred twenty
87 per cent of all uninsured public deposits held by the depository, or, in
88 the case of such a qualified public depository that satisfies the
89 requirements of subsection (f) of this section, a sum equal to one
90 hundred per cent of all uninsured public deposits held by the
91 depository.]

92 (a) (1) To secure public deposits, each qualified public depository
93 that is not under a formal regulatory order shall at all times maintain,
94 segregated from its other assets as provided in subsection (b) of this
95 section, eligible collateral in an amount not less than twenty-five per
96 cent of all uninsured public deposits held by the depository, provided
97 if such depository: (A) Is a bank or out-of-state bank having a tier one
98 leverage ratio of not less than six per cent and a risk-based capital ratio
99 of not less than twelve per cent, or is a credit union or federal credit
100 union having a net worth ratio of not less than eight per cent, the
101 amount of eligible collateral shall be a sum not less than ten per cent of
102 all uninsured deposits held by the depository; or (B) is a bank or out-
103 of-state bank having a tier one leverage ratio of less than five per cent
104 or a risk-based capital ratio of less than ten per cent, or is a credit
105 union or federal credit union having a net worth ratio of less than
106 seven per cent, the amount of eligible collateral shall be not less than a
107 sum equal to one hundred ten per cent of all uninsured public deposits
108 held by the depository.

109 (2) Notwithstanding the provisions of subdivisions (1) and (3) of
110 this subsection, to secure public deposits, each qualified public
111 depository that (A) has been conducting business in this state for a
112 period of less than two years, except for a depository that is a successor
113 institution to a depository which conducted business in this state for
114 two years or more, or (B) is an uninsured bank, shall at all times
115 maintain, segregated from its other assets as required under subsection
116 (b) of this section, eligible collateral in an amount not less than one
117 hundred twenty per cent of all uninsured public deposits held by the

118 depository.

119 (3) To secure public deposits, each qualified public depository that
120 is under a formal regulatory order shall at all times maintain,
121 segregated from its other assets as required under subsection (b) of this
122 section, eligible collateral in an amount not less than one hundred ten
123 per cent of all uninsured public deposits held by the depository.
124 However, if such regulatory order is not related to capital, asset
125 quality, earnings or liquidity, the depository notifies each of its public
126 depositors of the issuance of such order and such depository is a bank
127 or out-of-state bank having a tier one leverage ratio of not less than
128 five per cent and risk-based capital ratio of not less than ten per cent or
129 a credit union or federal credit union having a net worth ratio of not
130 less than seven per cent, such depository may reduce the amount of
131 eligible collateral it is required to maintain under this subdivision to an
132 amount not less than seventy-five per cent of all uninsured public
133 deposits held by the depository, provided if such depository is a bank
134 or out-of-state bank having a tier one leverage ratio of not less than
135 seven and one-half per cent and a risk-based capital ratio of not less
136 than fourteen per cent or a credit union or federal credit union having
137 a net worth ratio of not less than nine and one-half per cent, the
138 amount of eligible collateral may be reduced to a sum not less than
139 fifty per cent of all uninsured public deposits held by the depository.

140 (4) Notwithstanding the provisions of this subsection, the qualified
141 public depository and the public depositor may agree on an amount of
142 eligible collateral to be maintained by the depository that is greater
143 than the minimum amounts required under [subdivisions (1) to (6),
144 inclusive,] subdivision (1) or (3) of this subsection, as applicable. For
145 purposes of this subsection, the amount of all uninsured public
146 deposits held by the depository shall be determined at the close of
147 business on the day of receipt of any public deposit and any deficiency
148 in the amount of eligible collateral required under this section shall be
149 cured not later than the close of business on the following business
150 day. For purposes of this subsection, the depository's tier one leverage
151 ratio and risk-based capital ratio or net worth ratio shall be

152 determined, in accordance with applicable federal regulations and
153 regulations adopted by the commissioner in accordance with chapter
154 54, based on the most recent quarterly call report, provided [(A)] if,
155 during any calendar quarter after the issuance of such report, the
156 depository experiences a decline in its tier one leverage ratio, risk-
157 based capital ratio or net worth ratio to a level that would require the
158 depository to maintain a higher amount of eligible collateral under
159 [subdivisions (1) to (4), inclusive, or subdivision (6)] subdivision (1) or
160 (3) of this subsection, the depository shall increase the amount of
161 eligible collateral maintained by it to the minimum required under
162 [subdivisions (1) to (4), inclusive, or subdivision (6)] subdivision (1) or
163 (3) of this subsection, as applicable, based on such lower tier one
164 leverage ratio, risk-based capital ratio or net worth ratio and shall
165 notify the commissioner of its actions. [; and (B) if, during any calendar
166 quarter after the issuance of such report, the commissioner reasonably
167 determines that the depository's risk-based capital ratio is likely to
168 decline to a level that would require the depository to maintain a
169 higher amount of eligible collateral under subdivisions (1) to (4),
170 inclusive, or subdivision (6) of this subsection, the commissioner may
171 require that the depository increase the amount of eligible collateral
172 maintained by it to the minimum required under subdivisions (1) to
173 (4), inclusive, or subdivision (6) of this subsection, as applicable, based
174 on the commissioner's determination of such lower risk-based capital
175 ratio. For purposes of determining the minimum market value of the
176 eligible collateral under subsection (e) of this section, a qualified public
177 depository shall apply the collateral ratio using uninsured public
178 deposits.] The commissioner may, at any time, require the depository
179 to increase its eligible collateral to an amount greater than that
180 required by subdivision (1) or (3) of this subsection, as applicable, up
181 to a maximum amount of one hundred twenty per cent, if the
182 commissioner reasonably determines that such increase is necessary
183 for the protection of public deposits. If the commissioner determines
184 that such increase in eligible collateral is no longer necessary for the
185 protection of public deposits, the commissioner may allow the
186 depository to adjust the amount downward, as the circumstances

187 warrant, to an amount not less than the minimum amount required by
188 subdivision (1) or (3) of this subsection, as applicable.

189 (5) For purposes of this subsection, "formal regulatory order" means
190 a written agreement related to enforcement, including a letter of
191 understanding or agreement or a written order, that a supervisory
192 agency is required to publish or publishes on its web site, but does not
193 include any written agreement or written order under which the sole
194 obligation of the depository is to pay a civil money penalty, fine or
195 restitution.

196 (b) Each qualified public depository that is a bank or out-of-state
197 bank having a tier one leverage ratio of five per cent or greater or a
198 risk-based capital ratio of [eight] ten per cent or greater shall transfer
199 eligible collateral maintained under subsection (a) of this section to its
200 own trust department, provided such trust department is located in
201 this state unless the commissioner approves otherwise, to the trust
202 department of another financial institution, provided such eligible
203 collateral shall be maintained in such other financial institution's trust
204 department located in this state unless the commissioner approves
205 otherwise, or to a federal reserve bank or federal home loan bank. Each
206 qualified public depository that is a bank or out-of-state bank having a
207 tier one leverage ratio of less than five per cent or a risk-based capital
208 ratio of less than [eight] ten per cent and each qualified public
209 depository that is a credit union or federal credit union shall transfer
210 eligible collateral maintained under subsection (a) of this section to the
211 trust department of a financial institution that is not owned or
212 controlled by the depository or by a holding company owning or
213 controlling the depository, provided such eligible collateral shall be
214 maintained in such other financial institution's trust department
215 located in this state unless the commissioner approves otherwise, or to
216 a federal reserve bank or federal home loan bank. Such transfers of
217 eligible collateral shall be made in a manner prescribed by the
218 commissioner. [Eligible collateral shall be valued at market value or as
219 determined by the commissioner if market value is not readily
220 determinable, and the] The qualified public depository shall determine

221 and adjust the market value of such eligible collateral [shall be
222 determined and adjusted on a quarterly] on a monthly basis. Without
223 the requirement of any further action, the commissioner shall have, for
224 the benefit of public depositors, a perfected security interest in all such
225 eligible collateral held in such segregated trust accounts, granted
226 pursuant to and in accordance with the terms of the agreement
227 between the public depositor and the qualified public depository. Such
228 security interest shall have priority over all other perfected security
229 interests and liens. The commissioner may, at any time, require the
230 depository to value the collateral more frequently than monthly if the
231 commissioner reasonably determines that such valuation is necessary
232 for the protection of public deposits. Each holder of eligible collateral
233 shall file with the commissioner, at the end of each calendar quarter, a
234 report with the CUSIP number, description and par value of each
235 investment it holds as eligible collateral.

236 (c) The depository shall have the right to make substitutions of
237 eligible collateral at any time without notice. The depository shall have
238 the right to reduce the amount of eligible collateral maintained by it
239 that is in excess of the amount required under subsection (a) of this
240 section. [provided such reduction shall be determined based on the
241 amount of all uninsured public deposits held by the depository and
242 the depository's risk-based capital ratio as determined in accordance
243 with said subsection (a). The depository shall provide written notice to
244 its public depositors of any such reduction in the amount of eligible
245 collateral maintained under subsection (a) of this section.]

246 [(d)] The income from the assets which constitute segregated
247 eligible collateral shall belong to the depository without restriction.

248 [(e) Eligible collateral pledged to secure public deposits under
249 subsection (a) of this section shall have a minimum market value as
250 expressed in the following collateral ratios:

T1

Collateral Ratio

T2	Form of Eligible	(Market value
T3	Collateral Pledged	divided by public
T4		deposit plus
T5		accrued interest)
T6	1. United States Treasury bills, notes and bonds	
T7	A. Maturing in less than one year	102%
T8	B. Maturing in one to five years	105%
T9	C. Maturing in more than five years	110%
T10	D. Zero-coupon treasury securities with	
T11	maturities exceeding ten years	120%
T12	2. Actively traded United States government	
T13	agency securities	
T14	A. Maturing in less than one year	103%
T15	B. Maturing in one to five years	107%
T16	C. Maturing in more than five years	115%
T17	3. United States government agency	
T18	variable rate securities	103%
T19	4. Government National Mortgage Association	
T20	mortgage pass-through or participation	
T21	certificates or similar securities	
T22	A. Current issues	115%
T23	B. Older issues	120%
T24	C. Issues for which prices are not quoted	125%
T25	5. Other United States government securities	125%
T26	6. Other mortgage pass-through or participation	
T27	certificates or similar securities	125%
T28	7. One-to-four family residential mortgages	125%
T29	8. State and municipal bonds	
T30	A. General obligation bonds	
T31	i. Maturing in less than one year	102%
T32	ii. Maturing in one to five years	107%

T33	iii. Maturing in more than five years	110%
T34	B. Revenue bonds	
T35	i. Maturing in less than one year	105-110%
T36	ii. Maturing in one to five years	110-120%
T37	iii. Maturing in more than five years	120-130%

251 (f) A qualified public depository that is subject to an order to cease
 252 and desist, consent order or a preliminary warning letter, or has
 253 entered into a stipulation and agreement, memorandum of
 254 understanding or a letter of understanding and agreement with a bank
 255 or credit union supervisor, may maintain eligible collateral in a sum
 256 equal to or greater than one hundred per cent of all uninsured public
 257 deposits held by the depository, provided (1) the depository has a risk-
 258 based capital ratio of twelve per cent or greater, and (2) the depository
 259 satisfies the following conditions, to the extent applicable: (A) The
 260 depository may not pledge eligible collateral in the form described in
 261 subsection (e)6. of this section, except for mortgage pass-through or
 262 participation certificates or similar securities that have been issued or
 263 guaranteed by the Federal National Mortgage Association or the
 264 Federal Home Loan Mortgage Corporation and for which prices are
 265 quoted; (B) the depository may not pledge eligible collateral in the
 266 form described in subsection (e)4.C. of this section; (C) if the public
 267 depository pledges eligible collateral in the form described in
 268 subsection (e)7. of this section, the collateral ratio for such mortgages
 269 shall be one hundred fifty per cent; and (D) if the public depository
 270 pledges eligible collateral in the form described in subsection (e)8. of
 271 this section, such collateral shall be rated in the three highest rating
 272 categories by a rating service recognized by the commissioner. The
 273 depository may pledge any other eligible collateral that is not limited
 274 by subdivision (2) of this subsection.]

275 Sec. 3. Section 36a-338 of the general statutes is repealed and the
 276 following is substituted in lieu thereof (*Effective from passage*):

277 On each call report date, each qualified public depository shall file
 278 with the commissioner a written report, certified under oath,

279 indicating (1) the qualified public depository's tier one leverage ratio
 280 and risk-based capital ratio [and total capital] or net worth ratio, as
 281 determined in accordance with applicable federal regulations and
 282 regulations adopted by the commissioner in accordance with chapter
 283 54, (2) the uninsured and total amount of public deposits held by the
 284 qualified public depository other than deposits that have been
 285 redeposited into the qualified public depository by another insured
 286 depository institution pursuant to a reciprocal deposit arrangement
 287 that makes such funds eligible for insurance coverage by the Federal
 288 Deposit Insurance Corporation or the National Credit Union
 289 Administration, (3) the [amount and nature] description and market
 290 value of any eligible collateral segregated and designated to secure the
 291 uninsured public deposits in accordance with sections 36a-330 to 36a-
 292 338, inclusive, as amended by this act, and (4) the amount and the
 293 name of the issuer of any letter of credit issued pursuant to section 36a-
 294 337. Each depository shall furnish a copy of its most recent report to
 295 any public depositor having public funds on deposit in the depository,
 296 upon request of the depositor. Any public depository which refuses or
 297 neglects to furnish any report or give any information as required by
 298 this section shall no longer be a qualified public depository and shall
 299 be excluded from the right to receive public deposits."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	36a-330(3)
Sec. 2	<i>from passage</i>	36a-333
Sec. 3	<i>from passage</i>	36a-338